

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
 FOR THE COUNTY OF YAVAPAI

2012 FEB 15 AM 8:57

SANDRA K HARRIS, CLERK

BY: *S. Fleck*

STATE OF ARIZONA,)

Plaintiff,)

vs.)

JAMES ARTHUR RAY,)

Defendant.)

Case No. V1300CR201080049

Court of Appeals

Case No. 1 CA-CR 11-0895

REPORTER'S TRANSCRIPT OF PROCEEDINGS
 BEFORE THE HONORABLE WARREN R. DARROW
 TELEPHONIC STATUS CONFERENCE

FEBRUARY 10, 2010

Camp Verde, Arizona

ORIGINAL

REPORTED BY
 MINA G. HUNT
 AZ CR NO. 50619
 CA CSR NO. 8335

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
2 FOR THE COUNTY OF YAVAPAI
3
4 STATE OF ARIZONA,)
5 Plaintiff,)
6 vs) Case No V1300CR201080049
7 JAMES ARTHUR RAY,) Court of Appeals
8 Defendant) Case No. 1 CA-CR 11-0895
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25 MINA G. HUNT
AZ CR NO 50619
CA CSR NO 8335

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1 Proceedings had before the Honorable
2 WARREN R. DARROW, Judge, taken on Wednesday,
3 February 10, 2010, at Yavapai County Superior
4 Court, Division Pro Tem B, 2840 North Commonwealth
5 Drive, Camp Verde, Arizona, before Mina G. Hunt,
6 Certified Reporter within and for the State of
7 Arizona.
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1 APPEARANCES OF COUNSEL:

2 For the Plaintiff:

3 YAVAPAI COUNTY ATTORNEY'S OFFICE
4 BY: SHEILA SULLIVAN POLK, ATTORNEY
5 BY: BILL R HUGHES, ATTORNEY
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8 (Appearing by telephone.)
9

7 For the Defendant:

8 THOMAS K. KELLY, PC
9 BY: THOMAS K. KELLY, ATTORNEY
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12 (Appearing by telephone)
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11 MUNGER TOLLES & OLSON, LLP
12 BY: LUIS LI, ATTORNEY
13 BY: TRUC DO, ATTORNEY
14 355 South Grand Avenue
15 Thirty-fifth Floor
16 Los Angeles, California 90071-1560
17 (Appearing by telephone.)
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1 P R O C E E D I N G S

2 THE COURT: I'm here in the courtroom using
3 our e-system here. If I could please ask for the
4 appearances.
5

6 We are in the case of State of Arizona
7 versus James Arthur Ray, V1300CR201080049.
8

9 Again, please, the appearances.

10 MR. KELLY: Tom Kelly, on behalf of James Ray,
11 Judge.
12

13 THE COURT: Okay.

14 MR. LI: Luis Li and Truc Do from Munger,
15 Tolles & Olson, and requesting to appear
16 specifically to Rule 38(a)(3) on behalf of Mr. Ray
17 as well.
18

19 THE COURT. I'm sorry. Mr. Li, who is with
20 you?
21

22 MR. LI: Of counsel, Truc Do, in our office,
23 as well.
24

25 MS. DO: Good afternoon, Your Honor.

MS. LI: And the spelling is T-r-u-c.

THE COURT: I have it on the pleading right
here.

MS. POLK: This is Sheila Polk, on behalf of
the state. I also have with me deputy county
attorneys Bill Hughes and Steven Sisneros.

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1 THE COURT: I'm going to ask defense counsel,
2 Mr. Kelly, or Mr. Li, if you have the application
3 actually filed. I don't have the rule at the tip
4 of my tongue here. I believe if the application is
5 actually filed for pro hac vice, you can start on
6 the case. Is that correct? I haven't looked at
7 that in some time.

8 MR. KELLY: This is Tom Kelly. I did review
9 the rule. And I believe once the application is
10 pending, which I can avow to the Court that my
11 office delivered the application last Friday. We
12 had a personal communication with the state bar
13 today. They believe the formal application pro hac
14 vice will be approved by Tuesday or Wednesday of
15 next week.

16 And Rule 38 appears, in my opinion,
17 Judge, to allow you to enter a temporary order
18 allowing Mr. Li and Ms. Do to appear between now
19 and then.

20 THE COURT: Does anyone on behalf of the
21 state, Ms. Polk, have any problem with Mr. Li
22 participating?

23 MS. POLK: No, Your Honor. I believe what
24 Mr. Kelly stated is correct, that this court can
25 grant leave.

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1 THE COURT: Okay.

2 And I do that.

3 I just wanted to discuss scheduling. I
4 have a jury trial in progress. I am trying to set
5 these hearings, do what I can to handle some
6 matters where expedited hearings have been
7 requested.

8 This trial, just working our way through
9 it, I do have two hours currently set for Friday.
10 And what I was going to address at that time was
11 going to be the gag-order issue, if we can call it
12 that, or at least begin to address that.

13 I've gotten quite a bit more reading
14 material here I see this afternoon. And I do know,
15 though, that the state has -- I'm sorry. The
16 defense has requested that there be a hearing
17 Friday also to consider release conditions.

18 There is considerable amount of
19 information that's been submitted with regard to
20 that. Some of it, I believe, again, under being --
21 it's under seal. That's the request. And it will
22 be under seal until ordered otherwise.

23 I don't know if there really can be much
24 else handled on Friday other than the -- at least
25 starting on the First Amendment/Sixth Amendment

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1 gag-order issue. But there was discussion at the
2 initial appearance with Mr. Kelly, Mr. Li and
3 Mr. Young there on behalf of the state. There was
4 discussion about having a modification-of-release
5 hearing on this Friday. Nothing happened right
6 away.

7 I had an informal conference with
8 Mr. Kelly and Mr. Young. And at that time it was
9 my impression anyway that there was going to be
10 some additional information provided. And I did
11 file a notice just to memorialize what we discussed
12 in that informal scheduling conference.

13 And I, essentially, abandoned the
14 accelerate briefing schedule at that point and did
15 not have the release matter on the hearing. I'm
16 sorry. On Friday. I've been assigned the case
17 since yesterday afternoon, of course, in terms of
18 covering all aspects of it.

19 So what -- I just want to hear in terms
20 of scheduling. I think I have two hours on Friday.
21 And I want to hear from all of you on what you want
22 to try to do with that time.

23 MR. LI: Your Honor, Luis Li, on behalf of
24 Mr. Ray --

25 THE COURT: Let me ask too if somebody on the
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1 defense, are you waiving Mr. Ray's presence for the
2 purpose of this scheduling conference?

3 MR. LI: We are, Your Honor.

4 THE COURT: Mr. Li, please proceed.

5 MR. LI: We appreciate very much the Court's
6 scheduling this conference because we think there
7 is some fairly important issues at stake here.
8 Mr. Ray, as everyone is aware, is currently in
9 custody. And it's our position these are
10 probation-eligible offenses and that we've
11 demonstrated amply both to the state, and now we
12 made some filings to the Court, that he's not a
13 flight risk.

14 And we ask the Court to reschedule the
15 modification-of-bail hearing for Friday as
16 originally intended. There is a couple of reasons
17 for this. The first thing is that the state has
18 had four months to investigate Mr. Ray. And
19 throughout that process we, on behalf of Mr. Ray,
20 have engaged the state. We've provided witnesses
21 to the state. We've met with the state on at least
22 five different occasions. I personally have asked
23 detectives, I've asked Mr. Hughes and others, if
24 there is -- if there are any questions that they
25 would like us to answer in term of Mr. Ray's

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1 finances or any other issues to assure the state
2 Mr. Ray is not a flight risk.
3 Among other things, the state also has
4 for the last four months Mr. Ray's computers -- all
5 of them, the business computers, his personal
6 computers, I think some of his staff members'
7 computers.

8 And, you know, to the extent that the
9 state wanted to conduct a financial review of
10 Mr. Ray and what he's doing with his money and
11 whether he's got offshore accounts and the like,
12 all of that material has been available to the
13 state for the last four months.

14 And we have never had a clear picture
15 from the state exactly what fact constitutes the
16 reason why there should be a \$5 million bond. And
17 we've never had an open discussion with the state
18 as to why they believe its financial circumstances
19 indicate that he can be a flight risk.

20 And we've, essentially, been asked for
21 the last few weeks. I guess time is collapsing.
22 Probably the last week or so to prove the negative.
23 We've been asked to prove that he -- we've been
24 asked to prove that he doesn't have offshore bank
25 accounts or we've been asked to account for every

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1 dollar that he spent in the last few years.

2 And that is -- what we've filed in front
3 of the Court today is, essentially, an accounting
4 as best we can do without his computers, without
5 all of his -- without his help, frankly, an
6 accounting of every dollar that we can find that he
7 either spent or generated in the last three or four
8 years.

9 And under normal bail circumstances, you
10 wouldn't have to do this. But we feel that because
11 we've, essentially, tried to open our books to the
12 state and, frankly, now to the Court as well, we
13 felt it was necessary to put all this information
14 in front of the Court because -- you know -- he's
15 being held on an unobtainable bond for
16 probation-eligible offenses.

17 And for that reason we are asking the
18 Court to reset the bail hearing for Friday.

19 MR. HUGHES: This is Bill Hughes. If I can
20 respond to a couple issues.

21 THE COURT: Yes.

22 MR. HUGHES: One regarding the issue of
23 whether the release hearing should be set for
24 Friday of this week. The state has requested
25 certain financial information from the defense.

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1 And I know Mr. Li is indicating that they're

2 willing to make this available to the state.

3 But in a meeting I had with Mr. Li back
4 on the morning prior to the initial, we asked for
5 copies of a number of financial records that Mr. Li
6 had. And at that time he declined. I think he
7 wanted a protective order in place. And I don't
8 know if they're attached to this two- or three-inch
9 thick filing that was provided earlier today or
10 not.

11 But we also ask for releases so we can
12 look in Mr. Ray's bank accounts going back to prior
13 to the records that Mr. Li showed us. I think he
14 showed us records starting in October. And we
15 wanted to see what Mr. Ray's financial picture was,
16 which I think is germane on the amount of the bond.

17 And as far as I know, at this point
18 Mr. Li is not willing to provide us with that
19 information. And we do need that information
20 before we can make a determination. And I think
21 the Court should want that information before it
22 can make the determination of the bond amount.

23 Secondly, with respect to the computer,
24 Mr. Li may -- may have slipped his mind. But he
25 will, I'm sure, recall that when we seized the

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1 computers pursuant to search warrant, he provided
2 us with a letter objecting to our search of the
3 computers, indicating that the computers contained
4 attorney-client privileged communication.

5 We've asked him to identify the records
6 on the computers which were attorney-client
7 communications, and that's never happened. And we
8 tried to come up with a way to search these very
9 voluminous computer hard drives. They're in the
10 terabyte level, which is many times the size
11 apparently of the Library of Congress of data.

12 And that's the reason that months have
13 gone by. We can't get a way to even begin
14 searching these computers until the issue of
15 attorney-client privileged documents that the
16 defense claims are on the computer but aren't
17 willing to identify to us can be overcome.

18 And pursuant to an agreement that we have
19 with Mr. Li and his office, we agreed that we
20 wouldn't begin searching the computers until we
21 could either reach an agreement or until we give
22 the defense advanced notice that we were going to
23 go ahead and do it unilaterally.

24 So, Your Honor, we haven't sat back for
25 four months and done nothing with the computers.

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1 We've had substantial road blocks put in place.
 2 Ultimately with respect to the issue of
 3 the bond and the bail issues, we need to know the
 4 conditions of Mr. Ray's finances. Obviously if
 5 Mr. Ray is broke, as I think his attorneys are
 6 arguing, it's a different situation than if, as he
 7 claims on his website, he made \$10 million last
 8 year.

9 And that's why we've requested and at
 10 this point have not received a records release so
 11 we can go into the bank accounts that the defense
 12 has claimed are Mr. Ray's and go back and try and
 13 do some sort of at least a cursory forensic review
 14 of those accounts and see if he has sizeable assets
 15 hidden overseas or in some other account. He does
 16 indicate that he's an international corporation.

17 MR. LI: Your Honor, if I may be heard?

18 THE COURT: Mr. Li.

19 MR. LI: It seems like there are two points
 20 that the state is making. One is that they've not
 21 been able to review Mr. Ray's financial records but
 22 for the fact that we haven't given them a release.

23 I was a prosecutor for 10 years, and I
 24 did financial crimes. And when I wanted to find
 25 out about a potential defendant, financial

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1 circumstances, I had the grand jury or other
 2 mechanisms, issued subpoenas, and simply got the
 3 records and looked at them ourselves.

4 Secondly, with respect to the computer,
 5 it is true that we believe there is attorney-client
 6 privileged material on the computer. That said,
 7 Mr. Hughes neglects to mention that on, I believe,
 8 November 3, 2009, I sent to Mr. Hughes a search
 9 protocol that we would do on the state's behalf at
 10 Mr. Ray's expense to do a privilege review.

11 And it's attached as Exhibit A to the Li
 12 declaration, the second Li declaration. And we,
 13 essentially, said, Mr. Hughes, here's my best stab
 14 at -- you know -- half a dozen search terms.
 15 Here's my best stab at the custodians we should
 16 look at and the time frame. And -- you know --
 17 Mr. Hughes, if you have any other suggestions,
 18 we'll be happy to implement them for you. We think
 19 our insurance can do this. And we'll do it for
 20 you. Just let us know how you want us to proceed.

21 And I think if the Court takes a look at
 22 Exhibit A to my declaration, you will see the
 23 entire spirit with which we've been proceeding in
 24 this process. We have been, essentially, asking is
 25 there anything we can do to provide information to

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1 you?

2 And I would ask the Court to look at this
 3 email. We sent it to Mr. Hughes. He sent back an
 4 email saying, essentially, that they would consider
 5 it. And then they never followed up.

6 And we never -- I believe -- I couldn't
 7 find an email in which he actually -- in which the
 8 state actually rejected the approach. But it may
 9 have been in a phone call subsequently in which I
 10 was informed the state was rejecting our approach.

11 And so we're not throwing road blocks.
 12 Quite the contrary. We've offered a way around
 13 this issue. I think it would be incorrect for the
 14 state to allege that we've been anything but
 15 helpful on that particular issue.

16 And, again, with respect to the financial
 17 records, the state has well within its power the
 18 ability to subpoena those records and probably
 19 should have four months ago.

20 MR. HUGHES: Your Honor, I know we don't want
 21 to spend all afternoon. If I can focus on the
 22 financial records issue. Certainly in Arizona -- I
 23 don't know about in California, but in Arizona our
 24 grand jury power is limited to gathering evidence
 25 of a crime.

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1 Mr. Ray has not been investigated for
 2 financial crimes. And we can't use the grand jury
 3 to go out and gather information other than what
 4 the law allows us to gather. We don't have the
 5 ability to use a grand jury to gather financial
 6 records when we don't have a financial crime.

7 And certainly at this point once charges
 8 are filed, case law is pretty clear. We can't
 9 continue to use the grand jury as an investigative
 10 tool in the case. Even if the grand jury had the
 11 ability to issue subpoenas into somebody's
 12 financial records and those records are not
 13 relevant to the crime that the Grand Jury is
 14 investigating.

15 So ultimately what we need is the records
 16 released or we'd ask the Court, and we may have to
 17 ask this in our response -- our written response to
 18 the motion for release conditions, for court order
 19 to allow us to gain the information that's relevant
 20 to the argument that the defense is raising, that
 21 he simply cannot afford this bond.

22 MR. LI: Your Honor, just a couple of things.
 23 And I too want to be respectful of the Court's time
 24 given the trial schedule. What we have supplied to
 25 the Court and to the state are financial records

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1 and declarations accompanying those financial
2 records that set forth exactly how much money he's
3 earned over the last however many years, eight
4 years, what the Ps and Ls, net cost of all of his
5 businesses have been, what his salary has been, his
6 tax returns and other documents relating to
7 Mr. Ray's financial condition.

8 I think one other thing that bears
9 noting, though, Your Honor, is that Mr. Ray
10 accompanied by me flew out the night before the
11 indictment just because the state might -- on my
12 judgment that the state might indict Mr. Ray. And
13 we wanted to present him to the sheriff and to the
14 county attorney so that he could surrender himself
15 if the state were going to bring an indictment.

16 We did not in fact -- no one told us an
17 indictment was pending. No one told us that there
18 were grand jury proceedings that had resulted in an
19 indictment.

20 And the morning of the day of his arrest,
21 I myself went to both the county attorney's office
22 and then to the sheriff's office to tell them that
23 Mr. Ray was sitting in Tom Kelly's office waiting
24 whatever may come. And that has been our approach
25 throughout this case.

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1 Moreover, I also presented certain
2 financial information to the detectives, and then
3 later I presented that same financial information
4 to Mr. Hughes and then asked and have been asking
5 for the last several months, is there any question
6 you need me to answer to ensure the state, to make
7 the state comfortable, that Mr. Ray is not a flight
8 risk?

9 It is only after his arrest and after the
10 detention and after the \$5 million bond that
11 Mr. Hughes is now saying that what we need is we
12 need to have financial records so we can -- and you
13 know -- somehow disprove the idea that there might
14 be some secret bank account somewhere.

15 THE COURT: Okay. What I'm going to do on the
16 release matter is I'm going -- that motion was
17 filed in my office, essentially, on last Thursday.
18 So I'm going to start the regular briefing time on
19 the response and any reply as a regular motion.

20 You can work with my JA, and I will get a
21 hearing set as soon as possible. Of course, have
22 to be -- has to be compliance with victims' rights
23 laws. People are aware of that. And that's the
24 way I'm going proceed with that. I'm not going to
25 hear the modification issue this Friday.

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1 MR. HUGHES: Thank you, Your Honor.

2 Just as a matter of housekeeping, we
3 received a number of pleadings in delivery to us
4 today. It indicated there is also a third
5 declaration of Luis Li, ex parte and in-camera
6 review. We didn't get a copy of that.

7 I was hoping, Luis, if you could fax or
8 email that to me so I can have that for our file.

9 MR. LI: Your Honor, the purpose behind
10 that --

11 And, Bill, I'll tell you what's in there,
12 but I'd rather not share the actual data. It
13 relates to attorneys' fees. And part of this was
14 in an effort to account for the way that money was
15 spent. And we felt that that was confidential and
16 that -- and we felt it's more appropriate to
17 provide that to the Court in camera.

18 And I hope you don't have an objection to
19 that. And I will represent to you that it is
20 solely related to attorneys' fees, who he's paid
21 previous to us, how much he's paid us to date,
22 et cetera.

23 And the main reason, again, was so we
24 could account for where his income has gone. And
25 the Court obviously will be able to review it. And

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1 if I play you false, I'm sure that the Court would
2 not allow that.

3 MR. HUGHES: We certainly don't have any
4 opposition to it being under seal. But to the
5 extent it's an ex parte communication, we would
6 object to that, I think, if it's germane to the
7 release issue -- we don't have a problem with it
8 being under seal and keeping it, basically, out of
9 the public eye, but we would request that we
10 receive a copy.

11 MR. LI: Your Honor, we would ask that it
12 remain in camera and that the Court be able to
13 review it. It is, essentially, exactly as I
14 indicated. I don't think there is a purpose behind
15 the state seeing how much Mr. Ray has paid lawyers
16 prior to us and including how much he's paid to us
17 today. I don't think that's appropriate for the
18 state to have.

19 THE COURT: Okay. I'll have to look at that.
20 And we'll address it again, I'm sure. I will look
21 at it first in camera. I'm aware of the ex parte
22 implication of it, the implication of making a
23 decision on information that's not shared by all
24 interested persons or properly interested persons.
25 But it will stay in camera and under seal at this

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1 point anyway.

2 MR. LI: Thank you, Your Honor. And to the
3 extent the Court is intending at some point not to
4 keep it in camera, we would at least ask the
5 opportunity to review whether we want -- whether
6 we'd rather have it disclosed to the state or
7 whether we'd rather just withdraw it.

8 THE COURT: That's how I would proceed. I
9 wouldn't do anything without notice and an
10 opportunity to register your position again.

11 MR. LI: Thank you very much, Your Honor.

12 THE COURT: You're welcome.

13 There is a couple of things. Well, I
14 wanted to hear what anybody else has to say in
15 terms of this Friday. Let's deal with one thing at
16 a time. Anything else about that? I'm not going
17 to address the release at that point.

18 I wanted to put a couple things on the
19 record. First, with regard to some requests for
20 redaction, I don't know how much information people
21 are getting or how quickly. But I did confirm the
22 order that that attachment to the original motion
23 or declaration not be released. Had the whole
24 thing sealed at this time. The clerk had a
25 question about separating the documents. And at

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1 this point it's just all under seal.

2 Also a request regarding redaction of
3 other information. And I did order redaction of
4 Social Security number.

5 Did everyone see that?

6 MR. LI: Yes, Your Honor.

7 THE COURT: Ms. Polk or Mr. Hughes, did you?

8 MR. HUGHES: Thank you, Your Honor. This is
9 Mr. Hughes. We did see that the Court ruled. We
10 would request that that ruling be without prejudice
11 just on the fine point of if there is a judgment
12 and sentencing at some point in time or a plea
13 agreement at some point in time, it's custom and
14 the practice of the county attorney to include a
15 Social Security number on any plea agreement. And
16 I believe it's the custom of the Court to include
17 that in the sentencing document.

18 So we would ask that the Court ruling be
19 without prejudice to that issue simply because the
20 Court and the state has an interest in being able
21 to identify people specifically in case there is
22 ever future cases.

23 In other words, I think it would be
24 inappropriate to make a special example in this
25 case and leave those information off pursuant to a

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1 court order when in every other case in the county
2 that information is eventually included on the file
3 for purposes of identification.

4 And the way the motion was written, it
5 seemed to include all documents that could possibly
6 be in the Court file now or in the future. And,
7 again, that response time hasn't run. And I don't
8 think it was the Court's intention to deal with the
9 issue of future documents.

10 But we would ask that the Court make it
11 clear that that ruling was without prejudice that
12 the future documents that might eventually come
13 down the pike.

14 THE COURT: I'm going to hear from people
15 before anything becomes permanent. I'm just
16 dealing with things as they come in, trying to
17 maintain the status quo. That's somewhat parallel
18 to a preliminary injunction. If there is harm
19 happening, you have to act. And then things can be
20 heard by everyone.

21 But no. I'll hear from what people have
22 to say. If there is a reason, appropriate legal
23 reason, to release Social Security number, I'll
24 hear about that.

25 In the future I'm going to request that
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1 everybody do what's happening now, which is make
2 sure there are requests that matters be sealed so
3 there is no question about that rather than
4 handling things orally at a hearing or some type of
5 appearance. So I appreciate if you continue to do
6 what's happening now.

7 And also with the redacted records, I had
8 the clerk make a copy of the unredacted records.
9 All those are being kept under seal. In the future
10 I'd rather have nothing but a redacted copy in the
11 manner that psychiatric evaluations are released
12 every day after being redacted. I want to work
13 with the copies and keep the originals not in any
14 way changed or altered.

15 But at this point there are complete
16 copies of everything that will be kept under seal.
17 And -- yeah. That's not any kind of a permanent
18 order. But if anything else comes in with a Social
19 Security number on it, it's not to be released at
20 this point.

21 MS. POLK: This is Sheila Polk. Are you able
22 to tell us what records are in the file that have
23 redactions on them now?

24 THE COURT: Yes. It's in the ruling. It's
25 actually in my ruling. I named them. Let's see if

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1 I have the updated file. It was the warrant dated
2 February 3, certificate of service dated
3 February 4, transmittal certificate filed and its
4 attachments. That's filed February 4. And those
5 were the documents.

6 MS. POLK: Thank you, Your Honor.

7 THE COURT: Does anyone have any other comment
8 about just the procedure for that? It's unusual.
9 But personally I just want to make sure there is a
10 complete record of anything that's changed. And,
11 as I, say in the future I don't want to have any
12 original that's changed, redacted, in any fashion.

13 The last thing I was going to bring up is
14 the court administration office is getting a lot of
15 calls all the time about what's scheduled and
16 what's happening. And I did tell Shelly Bacon I
17 would let her know if there was going to be
18 anything added to the hearing that I've already
19 noticed, at least to begin discussions, as I've
20 said, with regard to the gag order. And I did want
21 to keep her apprised by email of what's said.

22 Does anyone have a problem with that?

23 MS. POLK: We do not, Your Honor.

24 MR. LI: No, Your Honor.

25 THE COURT: Does anyone else want to say

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1 anything before we go off the record?

2 MR. KELLY: Judge, I have a procedural
3 question. This is Tom Kelly. I filed a pleading
4 waiving -- waiving Mr. Ray's presence at an
5 arraignment vacating the EDC, which was set for
6 tomorrow morning at 8:00 o'clock.

7 THE COURT: Right.

8 MR. KELLY: And requesting that the matter be
9 assigned a cause number and to a particular
10 Superior Court division.

11 Judge Brutinel acted on the request. And
12 after reviewing the rules, the question arose
13 under -- when we look at Rule 8.2, time limits,
14 which keys time limits on the date of arraignment,
15 and Rule 14.2, waiving the presence of a defendant
16 in arraignment, I guess the question arises as to
17 what will be the -- what will the date be for the
18 beginning of running of various time limits.

19 THE COURT: I think we usually look at the
20 filing of the 12.10. I thought that's normally how
21 people look at that.

22 MR. HUGHES: Your Honor, this is Bill Hughes.
23 Rule 1.3(b) makes it very specific. It does state
24 if an arraignment is not held, the date the
25 defendant receives notice, the next court date

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1 pursuant to 8 and 12.10 shall be deemed the date
2 of arraignment. And I think that that would be the
3 appropriate date.

4 MR. KELLY: And I'm looking at that rule now,
5 Judge. So would that be the date we had the
6 initial? Because Mr. Ray was present in person in
7 court and received notice.

8 MR. HUGHES: I think it would be the date the
9 12.10 notice was filed, which, I think, was
10 concurrent or within the same day or two as the
11 date that the minute entry setting the case
12 management conference went out.

13 THE COURT: That's what I was looking at.

14 Okay. Then, if there is nothing else.
15 Thanks to all of you for being able to get together
16 here on the short notice. Appreciate it. And
17 we'll hang up.

18 MR. LI: Thank you, Judge.

19 MR. KELLY: Thank you, Judge.

20 MS. POLK: Thank you, Judge.

21 MR. HUGHES: Thank you, Judge.

22 (The proceedings concluded.)

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1 STATE OF ARIZONA)
2 COUNTY OF YAVAPAI) ss REPORTER'S CERTIFICATE

3

4 I, Mina G Hunt, do hereby certify that I
5 am a Certified Reporter within the State of Arizona
6 and Certified Shorthand Reporter in California.

7 I further certify that these proceedings
8 were taken in shorthand by me at the time and place
9 herein set forth, and were thereafter reduced to
10 typewritten form, and that the foregoing
11 constitutes a true and correct transcript.

12 I further certify that I am not related
13 to, employed by, nor of counsel for any of the
14 parties or attorneys herein, nor otherwise
15 interested in the result of the within action

16 In witness whereof, I have affixed my
17 signature this 13th day of February, 2012

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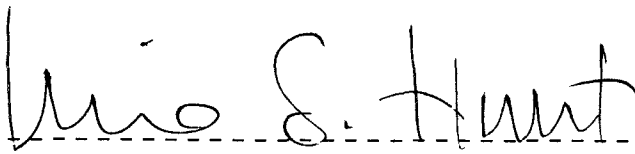
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